

**Washington County Land Use Authority Meeting
December 8, 2009
(Recording available)**

The Washington County Land Use Authority Meeting was held on Tuesday, December 8, 2009, at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Stucki. Commissioners present: Kim Ford, Debra Christopher, Doug Wilson, Joann Balen, and Rick Jones. Also present: Deon Goheen, Planning & Zoning Administrator; Rachelle Ehlert, Deputy Attorney; Kurt Gardner, Building Official; John Willie, Senior Planner; Todd Edwards, County Engineer; and Darby Klungervik, Planning Secretary.

Excused: Julie Cropper and Dave Everett

Audience attendance: Mark Cox, Lance Anderson, and Shelly Anderson

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

Item # 1. STAFF COMMENTS. Review staff comments for each item listed below. Staff initiated.

Item #2. CONDITIONAL USE PERMIT EXTENSION. Review use permit to expand the Red Butte Substation to support future load growth and to maintain transmission transfer capabilities, within the OSC-20 zone on approximately 17 acre of United States Forest Service land near Central. Rocky Mountain Power/Roger Rigby, applicant

The Planner explained this is an automatic annual review and public utilities are conditionally approved within the OSC-20 zone. The purpose of this zone is to permit the use of open space land within the county for uses compatible with the protection of the natural and scenic resources of the county for the benefit of present and future generations. As previously reported, the Red Butte Substation expansion project was approved by the Dixie National Forest Pine Valley Ranger District. The substation is located about one mile west of Central, Utah. Once the construction has been completed there will be no more traffic than what is already occurring for maintenance of the current substation. The transmission planning studies have determined a need to provide a 345 kV shunt capacitor bank by 2010, and voltage support by 2011 to maintain transmission capacities and service to the southwest Utah area. The expansion of the Red Butte Substation allows the installation of infrastructure needed to support area load growth, and also optimizes the use of existing facilities. Previously, the commission reviewed a detailed report on development plan, standard mitigation measures and operating procedures. The building official will provide us with updated photos of the project and Mark Cox is present to review their progress.

Mark Cox, Rocky Mountain Power, said a year ago when he got the original CUP, The Forest Service had given them verbal approval and getting their written approval has caused a slight delay in progress. He noted the project has grown from fourteen (14) acres to twenty six (26)

acres and with the extra space they will have more power lines coming through. He mentioned they are in the process of getting the environmental assessment done; they had a meeting with the Forest Service last spring that went well and they were able to set a time line for this project. Mr. Cox showed the property layout and the location of the equipment and transmission lines within the property. He said the reason they are here today is for the continuation of the CUP they received last year, as well as to show the commission the changes, including expanding the project to twenty six (26) acres. He also added that Rocky Mountain Power does have it in the contract for dust control, though he did think the county should put some tax money into upgrading the road as well.

Motion was made by Commissioner Balen to recommend approval for the conditional use permit extension for the Red Butte Substation, on 26.4 acres in Central, for a period of one year, subject to the environmental assessment being completed. Commissioner Jones seconded the motion. Five (5) commissioners voted aye.

Item # 3. CONDITIONAL USE PERMIT EXTENSION Review permit to create pasture grounds, corral and stabling lease areas for horses and an equipment, storage area and work shop for the Kayenta development group within the OST-20 zone, a portion of Sec. 36, T41S, R17 W, and Sec. 1, T42, R17W, SLB&M, generally located south of Ivins. Terry Marten, applicant

The Planner informed the commission once again, that this is an automatic annual review of a request for riding stables, training arenas, and fenced RV storage areas are conditionally approved within the OST-20 zone. The commission made findings that uses are similar to the listed conditional uses and judged by the planning commission to be in harmony with the character and intent of the zone. History shows previous attempts by Sheila Wilson, founder and Sunhawk Productions to establish a Native American Cultural Center at this location have diminished, the mortgagee, Terry Marten (Kayenta Development), would like to pursue viable options on his investment, until this area can be combined with surrounding future development, annexed to Ivins, and/or Ms. Wilson's past dream becomes a reality. Mr. Marten previously submitted a site plan, sanitary facilities, water, BLM right-of-way documentation, and engineering on flood way, flood plain and the erosion zone, although no building permit has been issued for the workshop. Mr. Anderson is in attendance on behalf of the applicant.

Lance Anderson said they have not done a lot on this project due to the economy. He said the existing map is still viable and if anything changes they will come in to amend it. He also noted that this storage is being used as an overflow for Kayenta.

The Commission informed Mr. Anderson that he needed to take the protection zone around his pump house into consideration when planning this project. They suggested he label the protection zone on any future maps.

Motion was made by Commissioner Christopher to recommend approval of the conditional use permit extension, to create a pasture grounds, corral and stabling lease area for horses and equipment, storage and a workshop, for a period of one (1) year. Commissioner Balen seconded the motion. Five (5) commissioners voted aye.

Item # 4. PUBLIC HEARING Open hearing for a zone change from Open Space Transitional to Planned Development zone in Diamond Valley.

This item was withdrawn by the applicant.

Item # 5. ZONE CHANGE Request permission for a zone change from OST-20 (Open Space 20 acres) to PD (Planned Development) for residential, commercial treatment facility, and open space, generally located ½ mile northwest of Diamond Valley. Russell W. Talbot and Southwest Federal Credit Union/Curtis Anderson, applicant and Bush & Gudgell Engineering, agent

This item was withdrawn by the applicant.

Item # 6. PRELIMINARY PLAT Consider preliminary plat approval for Diamond Valley area Subdivision, 2 lots, containing approximately 39.01 acres, a portion of the NW & SW 1/4, Section 35, T40S, R15W, SLB&M, generally located northwest of Diamond Valley Acres. Russell W. Talbot and Southwest Federal Credit Union/Curtis Anderson, applicant and Bush & Gudgell Engineering, agent

This item was withdrawn by the applicant.

Item # 7. PUBLIC HEARING Open hearing for Washington County Land Use (Zoning) Ordinance amendments regarding housekeeping items in Chapters 2 and 18. County initiated.

The Planner explained the commission will need to open a public hearing as referenced by State Code, whereas amending Washington County Zoning Ordinance requires a minimum ten days published notice and 24 hour posting of agenda before other public meetings.

The Chairman opened the public hearing at 2:00p.m.

The commission and the staff discussed why “conditional use permits” was being deleted from the ordinance and the planner explained it was being deleted because the Planning Commission does not hold public hearings for conditional use permits therefore it did not belong in this ordinance.

The Chairman closed the public hearing at 2:05 p.m., with no public comment being offered.

Item # 8. ORDINANCE AMENDMENT. Consider approval on amendment to the Washington County Land Use (Zoning) Ordinance, Title10 Chapter 2-2.C: Authority To Hear And Act; Chapter 18- 3 & 8: Application Process and Time Limitation. County initiated. (See page 8 for action on Chapter 18-3)

The Planner noted that based on the recommendations of the planning commission, staff provided changes to the following: 1) Authority to Hear and Act; 2) Application Process; and 3) Time Limitation, on a Conditional Use Permit approval. The differences from current standards for the commissions review have been provided in a red-lined copy in a PDF file for your review prior to the meeting. Lead Civil Attorney Patterson has been working on a case that involved Rocky Mountain Power and Diamond Valley area residents, with the county granting CUP

approvals for 3 or 4 consecutive years, instead of the 1 year allotted by ordinance. It was decided by planning commissioners that the time frame would stand, although there was a correction in word usage and deletion of some language. The commission should be ready to recommend approval.

Facts/findings:

- We do not hold public hearings for conditional use permits

Motion was made by Commissioner Balen to recommend adoption of 10-2-2-C, based on the findings. Commissioner Christopher seconded the motion. Five (5) commissioners voted aye.

Facts/findings:

- In order to clarify the intent of the ordinance, it is necessary to replace the word application with the word permit and add Land Use Authority before planning commission

Motion was made by Commissioner Christopher to recommend adoption of 10-18-8, based on the applicable findings. Commissioner Wilson seconded the motion. Five (5) commissioners voted aye.

Item # 9. PUBLIC HEARING Open hearing for Washington County Subdivision Ordinance amendments regarding a Scattered Parcel Definition. County initiated.

The Planner noted the commission will need to open a public hearing as referenced by State Code, whereas amending Washington County Subdivision Ordinance requires a minimum ten days published notice and 24 hour posting of agenda before other public meetings.

The Chairman opened the public hearing at 2:10 p.m.

After some discussion the commission decided a legal right-of way was necessary, but it did not need to be a recorded right-of way.

Commissioner Wilson pointed out the difference between a scattered parcel and a buildable scattered parcel and with that the commission decided to separate the definitions and add the word “buildable” before “lot” in the definition.

Todd Edwards, County Engineer, agreed the definitions for scattered parcels and buildable scattered parcels should be separated because you can own a scattered parcel that is not necessarily a buildable lot.

The commission discussed whether a parcel could be land locked or not and it was decided that it could be land locked and still be a scattered parcel, but it had to have a legal right-of-way to be a buildable scattered parcel.

The public hearing was closed at 2:25 p.m. by Chairman Stucki.

Item # 10 ORDINANCE AMENDMENT Consider approval on amendment to the Washington County Subdivision Ordinance, Title 11 Chapter 2: Term Definition: Scattered Parcel. County initiated.

The Planner said legal council determined there was a need for a definition for “Scattered Parcels”. The County has set the following as policy, but never had a definition prepared for the Subdivision Ordinance.

1. If lots were recorded prior to 1972, the year the County adopted their first Subdivision Ordinance, they are considered to be “legal non-conforming” lots and we will issue a building permit on them, regardless of size, subject to the following conditions:
 - A legal, recorded access to the property.
 - A septic tank permit from the Southwest Utah Public Health Department.
 - A source of culinary water. (Hauling water is not permitted)
2. In 1992, the State amended their subdivision enabling law to define a Subdivision as the division of any parcel of property for building purposes. This definition is regardless of size. Because there had been many “illegal” lots (scattered parcels) sold off in the County between 1972 and 1992, the Commission in effect, made all of those lots also “legal non-conforming” subject to the same conditions as those listed in #1 above, with one addition as follows:
 - Each parcel of land must meet the zoning requirements for the zone in which it is located.
3. All other parcels must be located in an approved and recorded subdivision in order to obtain a building permit.

Facts/findings:

- We created a definition for scattered parcels that did not previously exist
- The ordinance clarifies what a scattered parcel is and defines a buildable scattered parcel

Motion was made by Commissioner Balen to recommend adoption of Title eleven (11) chapter two (2), with the modifications discussed. Commissioner Christopher seconded the motion. Five (5) commissioners voted aye.

Item # 11. STAFF DECISIONS. Review of decisions from the Land Use Authority Staff Meeting held on December 1, 2009. County initiated.

The staff meeting convened at 9:30 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Rachelle Ehlert, Deputy Civil Attorney; Todd Edwards, County Engineer; Darwin Hall, Ash Creek Special Service District Manager; Tina Esplin, Washington County Water Conservancy District;

Excused: Ron Whitehead, Public Works Director; Kurt Gardner, Building Official; and Robert Beers, Southwest Utah Public Health Department

CONDITIONAL USE PERMIT EXTENSION:

A. Request permission for a 2nd dwelling for a family member within the RA-5 zone, BRR-1-23-NS, located at 2645 S. Old Hwy 91, in the New Harmony Valley. Nick Young, applicant.

This is the 2nd extension review and second dwellings are conditionally approved within the RA-5 zone as a single family dwelling for a family member. The applicant previously met the requirements for the use permit by submitting a site plan, septic permit from the Southwest Utah Public Health Department (SWPHD) and a letter from the Mountain Springs Water Company allowing for a water connection. Although, an updated letter from the SWPHD will be required on whether or not the existing septic tank will support more than the three bedrooms it was approved for. The property is accessed from Old Hwy 91 and the plan meets all 25' setback requirements. Building Inspector Henry Brannon made a rough electrical inspection on August 5, 2009. **The staff granted approval of the extension for another one (1) year period.**

CONDITIONAL USE PERMITS.

A. Request permission for a single family dwelling within the A-20 zone in the Mountain Meadows area. Tom Lamb, applicant

This particular parcel is 5 acres within the A-20 zone near Mountain Meadows, which was verified by deed as a grand fathered parcel split in 1969, prior to the adoption of the zoning ordinance in 1972. There are two other parcels in conjunction with this piece of land. The applicant meets the requirements for the use permit by submitting a site plan, septic permit from the Southwest Utah Public Health Department (SWPHD) and showing water rights and quality of water from a spring. The applicant accesses the property off SR-18 onto a Forest Service Road, which was previously recognized as a public access road for the Barton Imley Subdivision. **Staff granted approval of the Conditional Use Permit for the period of one (1) year.**

B. Request permission for a Casita within a garage in Canyon Trails Subdivision located in Dammeron Valley. Tony & Robin Vaughn Sorensen, applicant

The applicant has requested an accessory dwelling within a previously constructed garage and they thought they went through the approval process when ordinance was being addressed on accessory dwelling. Now there is a new contractor who will be doing the remodel. The applicant submitted a site plan and floor plan for staff review. The septic system installed for the main dwelling is adequate for the 1 bedroom added in the accessory dwelling. This meets the criteria set forth for accessory dwelling units. The Dammeron Valley Architectural Review Board will meet on this item Tuesday evening and the department considers this a courtesy review. **The Conditional Use Permit was approved for one (1) year, subject to the architectural review board.**

The Planning Commission and the staff agreed that the architectural review could be requested but should not be required as a condition of a Conditional Use Permit, as the county does not adjudicate CC & R's.

Item # 12. MINUTES. Consider approval of the minutes of the regular planning commission meetings held on November 10 and 24, 2009.

Motion was made by Commissioner Balen to approve the minutes from November 10, 2009. Commissioner Christopher seconded the motion. Five (5) commissioners voted aye.

Motion was made by Commissioner Wilson to approve the minutes from November 24, 2009. Commissioner Balen seconded the motion. Five (5) commissioners voted aye.

Item # 13. COUNTY COMMISSION ACTION REVIEW Review of action taken by the County Commission on Planning Items. County initiated.

The Planner reviewed the action taken on Planning Items by the Washington County Commission on December 1, 2009, beginning at 4:00 p.m.: (a) Conditional Use on installation and approval of the Crystle Creek pipeline, and distribution on the Kolob Water System for the Washington County Water Conservancy District on Kolob Mountain... Washington County Water Conservancy District/Ronald Thompson, applicant and Alpha Engineering, agent; (b) Conditional use for kenneling up to 10 dogs for Sage Rescue Services, Inc. in the Enterprise Valley, generally located east of Phillip Ranch Subdivision, Phase II... Brad Hodgins, Carol Ann Ruge, and Steven Strand, applicants; and (c) Amended road dedication plats for Airport Parkway and Desert Canyons Parkway, located in Sections 23 & 26, T43S, R15W, SLB&M, County unincorporated... St. George City, applicant

The planner reported that these items were approved by the County Commission, based on recommendation by the Planning Commission.

Item # 14. COMMISSION & STAFF REPORTS: General reporting on various topics. County initiated.

The planner reminded the commissioners of their invitation to attend the APA Audio Conference on Wednesday, December 9, 2009, at 1:00 p.m., Hurricane City Office, 147 N. 870 West, for an Introduction to the Planning Commission, Part One.

There was also an invitation to the Planning Commission Christmas Party after the meeting downstairs, Planning Conference Room, and the planner announced there will be no meeting on December 22, 2009.

At 2:43 p.m., Chairman Stucki accepted a motion to adjourn, with Commissioner Balen saying "so moved" and Commissioner Christopher seconded the motion. All five (5) commissioners voted aye.

Item # 8. ORDINANCE AMENDMENT Re Opened at 2:45 p.m. The planner suggested to legal council that it was necessary to act on 10-18-3: Application Process and it was properly advertised, so the deputy attorney urged the chairman to re convene the meeting. (Continued from page 3)

The new paragraph would read: *Application for a conditional use permit shall be made at the office of the planning commission.* The section to be deleted is, “...in the same manner as a request for a zone change, subdivision review or other similar planning request.”

Fact/Finding:

- To clarify the approval process for Conditional Use Permits

Motion was made by Commissioner Christopher to recommend approval of the ordinance amendment 10-18-3: Application Process, based on the facts and findings. Commissioner Balen seconded the motion. Five (5) commissioners voted aye.

Chairman Stucki said he would accept a motion to adjourn, with Commissioner Christopher saying, “so moved” and Commissioner Balen seconded by repeating, “so moved”. All five (5) commissioners voted aye.

There being no further business at 2:55 p.m., Chairman Stucki adjourned the meeting.

Darby Klungervik, Planning Secretary